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DES MOINES, IA 50309-2721

EXAMINER

PASS, NATALIE

ART UNIT

PAPER NUMBER

3626

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Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3626

DETAILED ACTION

Notice to Applicant

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 June 2006 has been entered.
2. This communication is in response to the Request for Continued Examination and amendment filed on 8 June 2006. Claims 84, 92, 97-98 have been amended. Claims 1-83, 90-91, 101 and 104 have been cancelled. Claims 85-89, 93-96, 99-100, 102-103 have been previously presented. Claims 105-111 have been newly added. Grounds of rejection for claims 84-89, 92-100, and 102-103, and 105-111 are presented in the instant application as set forth in detail below. The IDS filed on 8 June 2006 has been entered and considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Newly added claims 109 and 111 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(A) Claims 109 and 111 recite limitations that are new matter, and are therefore rejected. The added material which is not supported by the original disclosure is as follows:

- "an evaluation and management code," as disclosed in claims 109 and 111 at lines 1-2, respectively.

35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. "New matter" constitutes any material which meets the following criteria:

- a) It is added to the disclosure (either the specification, the claims, or the drawings) after the filing date of the application, and
- b) It contains new information which is neither included nor implied in the original version of the disclosure. This includes the addition of physical properties, new uses, etc.

In particular, the Examiner was unable able to find any support for this newly added language within the specification as originally filed on 26 April 2000. Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

Art Unit: 3626

5. If Applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can, be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed on 26 April 2000.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 84, 88-89, 94-100, 102-103, 110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al., U.S. Patent Number 6, 393, 404 in view of Dorne, U.S. Patent Number 5, 325, 293 for substantially the same reasons given in the previous Office Action (paper number 02172006), and further in view of Goltra, U.S. Patent Number 5, 823, 949. Further reasons appear hereinbelow.

(A) Claim 84 has been amended to include the recitation of

- ♦ “representing” in lines 3 and 6;
- ♦ “applicable to the procedure” in line 7’
- ♦ “providing a user interface adapted for ranking the at least one diagnosis code linked with the patient procedure code in a user defined rank order” in lines10-11; and
- ♦ “documenting the patient encounter” in line 12.

Art Unit: 3626

As per newly amended claim 84, Waters discloses a method for providing medical coding, comprising:

receiving a selection of a patient procedure code on a first computer (Waters; Figure 3, column 3, lines 52-65) the patient procedure code representing a procedure performed on a patient during a patient encounter (Waters; Abstract, column 2, lines 47-48);

receiving a selection of at least one diagnosis code on the first computer (Waters; Figure 2, column 3, lines 30-51), each of the at least one diagnosis code representing a diagnosis applicable to the procedure performed as “the medical professional ... [...] ... diagnoses the patient’s condition” (reads on “during the patient encounter”) (Waters; Figure 2, column 2, lines 23-26, column 3, lines 8-11, 44-51).

Although Waters teaches linking the patient procedure code to the diagnosis code (Waters; column 3, lines 53-65), Waters fails to explicitly disclose

linking the selection of the patient procedure code to the selection of the at least one diagnosis code on the first computer.

However, the above features are well-known in the art, as evidenced by Dorne.

In particular, Dorne teaches

linking the selection of the patient procedure code to the selection of the at least one diagnosis code on the first computer (Dorne; column 16, lines 9-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Waters to include the claimed limitations, as taught by Dorne, with the motivations of providing a method and system for rapidly, simply and accurately correlating diagnosis and procedure codes with medical procedures performed during a patient

Art Unit: 3626

examination which does not require a thorough understanding of the nomenclature used by the coding system, reducing time spent coding by busy physicians, and enabling more efficient payments from Medicare and private insurance companies for physician's services (Dorne; column 3, lines 10-28).

Although Waters teaches providing a user interface (Waters; Figure 2, Figure 3) that allows the user to configure the system to select or rank selected codes (Waters; Figure 3, column 3, lines 30-37), and although Waters teaches documenting the patient encounter (Waters; Abstract, column 2, lines 47-48), Waters fails to explicitly disclose

providing a user interface adapted for ranking the at least one diagnosis code linked with the patient procedure code in a user defined rank order; and

documenting the patient encounter by storing the rank ordering of the selection of the at least one diagnosis code linked to the selection of the patient procedure code of the procedure performed.

However, the above features are well-known in the art, as evidenced by Goltra.

In particular, Goltra teaches

providing a user interface adapted for ranking the at least one diagnosis code linked with the patient "medical finding" (reads on "procedure") code in a user defined rank order (Goltra; column 2, lines 25-27, column 4, line 58 to column 5, line 31, column 6, lines 6-10); and

documenting the patient encounter by storing the rank ordering of the selection of the at least one diagnosis code linked to the selection of the patient "medical finding" (reads on "procedure") code of the procedure performed (Goltra; column 6, lines 1-8).

Art Unit: 3626

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Waters to include the claimed limitations, as taught by Goltra, with the motivations of providing a good archival record of what has been done for a particular patient, thereby enabling tracking of problems for quality control, legal or other reasons, and tracking the relative effectiveness of various interventions, and additionally enabling healthcare professionals who must adequately document the examination and treatment of patients to provide proper documentation, for example to paying insurance companies, as to treatments or procedures prescribed during patient encounters (Goltra; column 2, lines 1-22).

(B) As per claims 88-89, Waters, Dorne and Goltra teach a method as analyzed and discussed in claim 84 above

further comprising associating the patient procedure code and the linked at least one diagnosis code with patient data including patient identifying information (Waters; column 4, lines 2-8);

further comprising sending patient data, including patient identifying information to the first computer from a second computer prior to the steps of receiving a selection of a patient procedure code and receiving a selection of a diagnosis code (Waters; column 4, lines 2-8).

(C) As per claims 94-97, Waters, Dorne and Goltra teach a method as analyzed and discussed in claim 84 above further comprising

Art Unit: 3626

generating a patient bill based on the selection of the patient procedure code and the selection of the at least one diagnosis code (Dorne; column 3, lines 18-39, column 19, lines 9-19);

wherein the step of linking maintains the defined relationship between the patient procedure code and the at least one diagnosis code (Dorne; column 3, lines 29-39, column 16, lines 9-22);

wherein the step of linking maintains a record of the defined relationship between the patient procedure code and the at least one diagnosis code (Dorne; column 3, lines 29-39, column 16, lines 9-22); and

wherein the defined relationship is a user defined relationship (Dorne; column 3, lines 18-39).

The motivations for combining the respective teachings of Waters, Dorne and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

(D) Claim 98 has been amended to include the recitation of

- ♦ “the patient procedure code representing a patient procedure performed on a patient during a patient encounter” in lines 3-4;
- ♦ “each of the at least one diagnosis code representing a diagnosis of the patient during the patient encounter” in lines 5-6; and
- ♦ “documenting ... [...] ... user defined...” in lines 9-10.

As per newly amended claim 98, Waters, Dorne and Goltra teach a method for providing code-driven medical reporting for billing purposes, comprising:

Art Unit: 3626

receiving a selection of a patient procedure code on a first computer (Waters; Figure 3, column 3, lines 52-65), the patient procedure code representing a patient procedure performed on a patient during a patient encounter (Waters; Abstract, column 2, lines 47-48);

receiving a selection of at least one diagnosis code on the first computer (Waters; Figure 2, column 3, lines 30-51), each of the at least one diagnosis code representing a diagnosis of the patient as “the medical professional ... [...] ... diagnoses the patient’s condition” (reads on “during the patient encounter”) (Waters; Figure 2, column 2, lines 23-26, column 3, lines 8-11, 44-51);

linking the selection of the patient procedure code to the selection of the at least one diagnosis code on the first computer (Dorne; column 16, lines 9-22);

charting (reads on “documenting”) (Goltra; column 6, lines 1-8) the linking of the selection of the patient procedure code and the selection of the at least one diagnosis code to provide for “keeping track of the ICD-9 diagnostic codes most likely associated with the procedures selected by the user” (reads on “maintaining a user defined rank ordered relationship between the patient procedure code and the at least one diagnosis code”) to thereby provide a detailed record of the patient encounter (Dorne; Abstract, column 8, lines 49-52, column 9, lines 6-11, column 12, lines 46-50, column 16, lines 9-12, 20-21).

The motivations for combining the respective teachings of Waters, Dorne and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

(E) As per claims 99-100, 102-103, Waters, Dorne and Goltra teach a method as analyzed and discussed in claims 84, 96, and 97 above

Art Unit: 3626

wherein each of the at least one diagnosis code is an ICD-9 code (Dorne; column 16, lines 9-19);

wherein the patient procedure code is a CPT code (Dorne; column 16, lines 20-21);

wherein a modifier is associated with the patient procedure code (Dorne; Figure 7, column 8, line 63 to column 9, line 2, column 10, lines 10-13);

wherein a unit value or RVU is assigned to the patient procedure code (Dorne; Figure 3G, column 1, lines 21-26, column 6, line 66 to column 7, line 4).

The motivations for combining the respective teachings of Waters, Dorne and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

(F) As per newly added claims 110-111, Waters, Dorne and Goltra teach a method as analyzed and discussed in claim 84 above

wherein the patient procedure code is a CPT code (Dorne; column 16, lines 20-21); and

wherein the CPT code is an evaluation and management code (Waters; column 2, lines 5-10, column 7, lines 1-6).

The motivations for combining the respective teachings of Waters, Dorne and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

8. Claims 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al., U.S. Patent Number 6, 393, 404, Dorne, U.S. Patent Number 5, 325, 293 and Goltra, U.S. Patent Number 5, 823, 949, as applied to claim 84 above, and further in view of Lavin et al, Pat.

Art Unit: 3626

No. 5,772,585, for substantially the same reasons given in the previous Office Action (paper number 02172006). Further reasons appear hereinbelow.

(A) As per claim 85, Waters, Dorne and Goltra teach a method as analyzed and discussed in claim 84 above.

Waters, Dorne and Goltra fail to explicitly disclose electronically sending patient data including the patient procedure code and the linked at least one diagnosis code from the first computer to a second computer.

However, the above features are well-known in the art, as evidenced by Lavin.

In particular, Lavin teaches electronically sending patient data including the patient procedure code and the linked at least one diagnosis code from the first computer to a second computer (Lavin; column 9, lines 34-56, column 13, lines 29-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collective teachings of Waters, Dorne and Goltra to include the claimed limitations, as taught by Lavin, with the motivations of providing a method for concurrently recording examination and diagnoses notes in a database during patient examination and enabling data entry and access to multiple items of information, previously recorded on separate paper and electronic media, at a common user interface and database structure simultaneously by more than one user, thus eliminating redundant data entry and centralization of patient information (Lavin; column 2, line 65 to column 3, line 11).

Art Unit: 3626

(B) As per claim 86-87, Waters, Dorne, Goltra and Lavin teach a method as analyzed and discussed in claim 84 above

further comprising displaying the patient procedure code and the linked at least one diagnosis code on a display of the first computer prior to the step of electronically sending (Waters; Figure 2, Figure 3, column 3, lines 53-64);

generating a patient bill at the second computer, the patient bill associated with the patient data (Lavin; column 9, lines 38-40 and column 13, lines 56-59).

The motivations for combining the respective teachings of Waters, Dorne, Goltra and Lavin are as given in the rejection of claims 84 and 85 above, and incorporated herein.

9. Claims 92-93, 105-109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al., U.S. Patent Number 6, 393, 404 in view of Goltra, U.S. Patent Number 5, 823, 949.

(A) Claim 92 differs from claim 84 in that it is a method for providing code-driven medical reporting rather than a method for providing medical coding.

Claim 92 has been amended to now recite,

- ♦ “each of the at least one diagnosis code representing one of at least one diagnosis applicable to a patient procedure code representing a procedure performed on a patient during a patient encounter” in lines 3-5; and
- ♦ “the patient procedure code representing the patient procedure performed on the patient during the patient encounter” in lines 6-8; and
- ♦ “user defined,” in line 9.

As per newly amended Claim 92, Waters teaches a method for providing code-driven medical reporting comprising:

receiving a selection of at least one diagnosis code on a first computer (Waters; Figure 2, column 3, lines 30-51), each of the at least one diagnosis code representing one of at least one diagnosis applicable to a patient procedure code representing a procedure performed as “the medical professional ... [...] ... diagnoses the patient’s condition” (reads on “on a patient during a patient encounter”) (Waters; Figure 2, Figure 3, column 2, lines 23-26, 47-48, column 3, lines 44-51); and

receiving a selection of the patient procedure code on the first computer (Waters; Figure 3, column 3, lines 52-65), the patient procedure code representing the patient procedure performed on the patient during the patient encounter (Waters; Abstract, column 2, lines 47-48).

Although Waters teaches linking the patient procedure code to the diagnosis code (Waters; column 3, lines 53-65), Waters fails to explicitly disclose

linking the at least one diagnosis code in a user defined rank order to the patient procedure code such that a defined relationship between the patient procedure code and the at least one diagnosis code is maintained to thereby provide a record of the patient encounter.

However, the above features are well-known in the art, as evidenced by Goltra.

In particular, Goltra teaches

linking the at least one diagnosis code in a user defined rank order to the patient procedure code such that a defined relationship between the patient procedure code and the at least one diagnosis code is maintained to thereby provide a record of the patient encounter (Goltra; column 2, lines 25-27, column 4, line 58 to column 5, line 31, column 6, lines 1-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Waters to include the claimed limitations, as taught by Goltra, with the motivations of providing a good archival record of what has been done for a particular patient, thereby enabling tracking of problems for quality control, legal or other reasons, and tracking the relative effectiveness of various interventions, and additionally enabling healthcare professionals who must adequately document the examination and treatment of patients to provide proper documentation, for example to paying insurance companies, as to treatments or procedures prescribed during patient encounters (Goltra; column 2, lines 1-22).

(B) As per claim 93, Waters and Goltra teach a method as analyzed and discussed in claim 92 above

further comprising generating a bill based on the patient procedure code and the at least one diagnosis code (Waters; column 2, lines 23-28, column 3, lines 62-64).

(C) As per newly added claim 105, Waters and Goltra teach a method for providing code-driven medical reporting, comprising:

providing a user interface adapted for operation on a first computer (Waters; Figure 3, Abstract, column 3, lines 40-43);

using the user interface to collect at least one procedure code representing a procedure performed on a patient during a patient encounter (Waters; Figure 3, Abstract, column 2, lines 47-48, column 3, lines 52-65);

for each of the at least one “medical finding” (reads on “procedure”) code, using the user interface to collect at least one diagnosis code, each of the at least one diagnosis code

Art Unit: 3626

representing a diagnosis of the patient during the patient encounter to thereby establish a user defined link (Goltra; column 2, lines 25-27, column 5, lines 2-6) between each of the at least one “medical finding” (reads on “procedure”) code and the at least one diagnosis code (Goltra; column 4, line 58 to column 5, line 31, column 6, lines 6-10);

documenting the patient encounter by storing each of the at least one procedure codes and storing each of the at least one diagnosis codes linked to each of the at least one procedure codes to provide a record of each set of diagnosis codes collected for each procedure code (Goltra; column 6, lines 1-8).

The motivations for combining the respective teachings of Waters and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

(D) As per newly added claims 106-109, Waters and Goltra teach a method as analyzed and discussed in claim 105 above

wherein the user interface being adapted to rank order each of the at least one diagnosis code linked with each of the at least one procedure code (Goltra; column 4, line 58 to column 5, line 31, column 6, lines 6-10);

further comprising using the user interface to receive a user defined rank ordering of the at least one diagnosis code (Goltra; column 4, line 58 to column 5, line 31, column 6, lines 6-10);

wherein the procedure code is a CPT code (Waters; column 1, lines 52-54); and

wherein the CPT code is an evaluation and management code (Waters; column 2, lines 5-10, column 7, lines 1-6).

Art Unit: 3626

The motivations for combining the respective teachings of Waters and Goltra are as given in the rejection of claim 84 above, and incorporated herein.

Response to Arguments

10. Applicant's arguments on pages 8-10 of the response filed 8 June 2006 have been considered but are moot in view of the new ground(s) of rejection.

11. As per Applicant's discussion in the last paragraph of page 10 regarding the newly added limitations including CPT codes and an evaluation and management CPT code, while Examiner agrees with Applicant's designation of page 21 in the originally filed specification as containing CPT codes, Examiner was unable to find support in Applicant's specification for an "evaluation and management" CPT code.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Iliff, U.S. Patent Application Number 2005/0165285, Howes, U.S. Patent Number 6738784, Hendrickson, U.S. Patent Number 5404292, Cave, et al., U.S. Patent Number 5970463, Spurgeon, U.S. Patent Number 6088677, Leet, U.S. Patent Number 6000828, teach the environment of associating codes with medical services.

13. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington D.C. 20231**

Art Unit: 3626

or faxed to: (571) 273-8300.

For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication. After Final communications should be labeled "Box AF."

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (571) 272-3600.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Natalie A. Pass

June 23, 2006



C. LUKE GILLIGAN
PATENT EXAMINER